

The Honorable Edward F. Shea

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

SARAH BRADBURN, PEARL
CHERRINGTON, CHARLES HEINLEN
and the SECOND AMENDMENT
FOUNDATION,

Plaintiffs,

v.

NORTH CENTRAL REGIONAL LIBRARY
DISTRICT,

Defendant.

No. CV-06-327-EFS

ATTORNEY REPORT

The parties submit this Attorney Report pursuant to the Court's January 4, 2007 Notice of Court's Scheduling Conference ("Notice"), and Fed. R. Civ. P. 26.

Pursuant to the Notice and Fed. R. Civ. P. 26(f), counsel for the parties conferred by telephone on Monday, January 15, 2007. On the call were Duncan Manville and Robert A. Hyde of Rafel Manville PLLC (representing Plaintiffs), and Thomas D. Adams and Celeste M. Monroe of Bullivant Houser Bailey PC (representing Defendant). Counsel discussed the topics listed in the Notice, and additional items referenced in Fed. R. Civ. P. 26.

a. Service of Process on Parties Not Yet Served

Service has been accomplished on all parties.

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1 **b. Jurisdiction and Venue**

2 The parties agree that the Court has original jurisdiction over the parties and over the
 3 subject matter of this dispute. Plaintiffs contend that the Court has supplemental jurisdiction
 4 over their claim for violation of Article I, Section 5 of the Washington State Constitution
 5 pursuant to 28 U.S.C. § 1337(a). Defendant contends that the Court may exercise
 6 supplemental jurisdiction over Plaintiff's claim under the Washington State Constitution, but
 7 that the Court should not exercise such jurisdiction. The parties agree that venue is proper in
 8 this Court.

9 **c. Anticipated Motions**

10 Depending on the information that is disclosed during the discovery process, Plaintiffs
 11 may file a motion for summary judgment at some point during this litigation. Defendant may
 12 file a motion to dismiss on the ground that, according to Defendant, there is no case or
 13 controversy for the Court to adjudicate. Each party would oppose a motion to dismiss or for
 14 summary judgment filed by the other party.

15 **d. Disclosures Required by Fed. R. Civ. P. 26(a)(1)**

16 *i Initial disclosures*

17 The parties have agreed to exchange their initial disclosures on or before February 14,
 18 2007.

19 *ii Discovery plan*

20 The parties are in agreement that discovery in this case should be conducted in
 21 accordance with the Federal Rules of Civil Procedure and the Local Rules for the United
 22 States District Court for the Eastern District of Washington. At this time the parties do not
 23 anticipate any need to depart from the requirements and limitations set forth in the foregoing
 24 rules.

25 *iii Pretrial deadlines*

26 The parties propose that this case be governed by the following schedule:

1 Deadline for disclosing expert witnesses: April 30, 2007

2 Deadline for completing discovery: July 30, 2007

3 Deadline for hearing dispositive motions: October 1, 2007

4 Pretrial conference: October 15, 2007

5 Trial October 29, 2007

6 This case will be tried to the Court, and the parties anticipate that the trial will last two
 7 weeks. As the case focuses on the use of Internet filters, audio/video equipment will
 8 undoubtedly be needed during the trial. The parties propose arranging for such equipment to
 9 be available as the trial date nears.

10 e. **Appropriateness of Special Procedures**

11 i *Consolidation of actions*

12 The parties are not aware of any other actions that could be appropriately consolidated
 13 with this one.

14 ii *Reference to a master or magistrate, to arbitration, or to the Judicial
 Panel on Multi-District Litigation*

15 The parties do not believe that this case should be referenced out.

16 iii *Application of the Manual for Complex Litigation*

17 The parties consider the Manual for Complex Litigation to be generally applicable.

18 iv *Bifurcation*

19 The parties agree that bifurcation will not be necessary.

20 f. **Modification of the Standard Pretrial Procedures**

21 The parties agree that the standard pretrial procedures need not be modified in this
 22 case.

23 g. **Feasibility of bifurcation or otherwise structuring sequence of the trial**

24 The parties agree that bifurcation or other similar structuring of the trial sequence will
 25 not be necessary.

1 **h. Statement by Non-Governmental Corporate Party**

2 This requirement does not apply, as the only corporate party to this litigation is the
 3 Second Amendment Foundation, a tax-exempt non-profit Washington corporation organized
 4 under § 501(c)(3) of the United States Internal Revenue Code.

5 **i. Trial by United States Magistrate Judge**

6 The parties do not consent to have this case tried by a full-time United States
 7 Magistrate Judge.

8 **j. Prospects of Settlement**

9 At this point there is no prospect of settlement. Circumstances may change depending
 10 how this case evolves through the discovery process and, possibly, through motion practice.

11 **k. Whether the Case Involves a Minor or Incompetent Party**

12 This case does not involve a minor or incompetent party. The appointment of a
 13 guardian ad litem will not be necessary.

14 **l. Other Matters**

15 At this time, the parties are not aware of any other matters that might be conducive to
 16 the just, efficient and economical determination of this action.

17 **m. A Brief Description of the Claims and Defenses**

18 Defendant is a municipal corporation that operates 28 community library branches in
 19 Chelan, Douglas, Ferry, Grant and Okanogan Counties. Plaintiffs are patrons of Defendant's
 20 library branches, and a non-profit organization that wishes to communicate the contents of its
 21 Web site and sponsored online publications to Defendant's patrons.

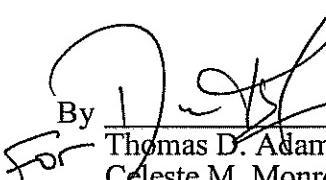
22 Plaintiffs challenge the constitutionality of a policy adopted by Defendant whereby
 23 Defendant will not, at the request of adults who wish to access constitutionally-protected
 24 speech, disable Internet filters that Defendant has installed on its publicly-available computer
 25 terminals. Plaintiffs claim that Defendant's policy of refusing to disable the filters upon
 26 request violates the First Amendment of the United States Constitution and Article I, Section 5

1 of the Washington State Constitution. Plaintiffs seek permanent injunctive relief that will end
 2 this practice.

3 Defendant denies that it has ever operated an Internet filtering system in violation of
 4 the standards established by the Constitutions of the United States or the State of Washington.

5 DATED this 30th day of January, 2007.

6 RAFEL MANVILLE PLLC
 7
 8 By 
 9 Duncan Manville, WSBA #30304
 10 Robert A. Hyde, WSBA #33593
 11 Attorneys for Plaintiffs Sarah Bradburn, Pearl
 12 Cherrington, Charles Heinlen and the Second
 13 Amendment Foundation

14 BULLIVANT HOUSER BAILEY PC
 15 By 
 16 Thomas D. Adams, WSBA #18470
 17 Celeste M. Monroe, WSBA #35843
 18 Attorneys for Defendant North Central
 19 Regional Library District